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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JUL 18 2012

AT 8:30 _____ M
WILLIAM T. WALSH
CLERK

ASTRAZENECA AB, ASTRAZENECA
LP, KBI-E INC., and POZEN INC.,

Plaintiffs,

v.

LUPIN LTD. and LUPIN
PHARMACEUTICALS INC.,

Defendants.

Civil Action No. 11-cv-04275-JAP-DEA

**STIPULATED CONSENT JUDGMENT
OF NON-INFRINGEMENT OF
U.S. PATENT NO. 5,900,424**

WHEREAS on July 25, 2011, AstraZeneca AB, AstraZeneca LP, KBI-E Inc. and Pozen, Inc. ("Plaintiffs ") filed a Complaint for Patent Infringement in Civil Action No. 11-cv-4275-JAP-DEA against Lupin Ltd. and Lupin Pharmaceuticals Inc. ("Lupin") alleging infringement of U.S. Patent Nos. 5,714,504 ("the '504 patent"); 6,875,872 ("the '872 patent"); 6,369,085 ("the '085 patent"); 7,411,070 ("the '070 patent"); 7,745,466 ("the '466 patent"); and 6,926,907 ("the '907 patent") (collectively, "the Asserted Patents") based on Lupin's filing of Abbreviated New Drug Application ("ANDA") No. 202654, which seeks FDA approval to engage in the commercial manufacture, use, offer for sale, sale, and/or importation of generic esomeprazole magnesium delayed release naproxen tablets ("Lupin's ANDA Product"), prior to the expiration of the Asserted Patents. [D.I. 1.];

WHEREAS on September 26, 2011, Lupin filed counterclaims seeking a declaratory judgment of non-infringement and invalidity of the Asserted Patents and a

declaratory judgment of non-infringement and invalidity of U.S. Patent No. 5,900,424 (“the ’424 patent”). [D.I. 24.];

WHEREAS in order to further streamline the issues in this case, the parties have agreed that their respective rights and liabilities in relation to this action shall be decided as between themselves based on the Asserted Patents, and Plaintiffs agree to the entry of a consent judgment of non-infringement of the ’424 patent as set forth below, and Lupin agrees to dismiss all of its counterclaims regarding the ’424 patent in the above-captioned action;

It is ORDERED and ADJUDGED, as between the parties hereto, that judgment is hereby entered that:

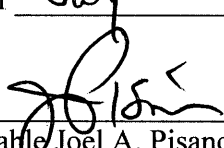
1. Neither Lupin’s ANDA Product nor the formulations thereof that are the subject of Lupin’s ANDA No. 202654, described in Lupin’s June 10, 2011 Notice Letter, nor Lupin’s ANDA No. 202654 itself, including any amendments or supplements thereto, seeking FDA approval to engage in the commercial manufacture, use, offer for sale, sale and/or importation of Lupin’s ANDA Product, infringe, contribute to, or induce infringement of any claim of the ’424 patent.

2. All counterclaims, defenses and allegations asserted by Lupin seeking other relief with respect to the ’424 patent are dismissed with prejudice pursuant to Fed. R. Civ. P. 41(a)(2). The ’424 patent is presumed valid and enforceable, and Lupin has not rebutted that presumption in this action.

3. The consent judgment and dismissals in paragraphs 1 and 2 shall have *res judicata*, collateral estoppel, or other preclusive effect only with respect to any future suit between the parties alleging infringement of the ’424 patent by any formulation that is the

subject of Lupin's ANDA No. 202654 and any amendments or supplements thereto, or future dosage strengths of the product that is the subject of Lupin's ANDA No. 202654. Except as specifically set forth herein, the consent judgment and dismissals in paragraphs 1 and 2 shall not have *res judicata*, collateral estoppel, or other preclusive effect.

IT IS SO ORDERED and SIGNED this 17th day of July, 2012



Honorable Joel A. Pisano
United States District Judge

The undersigned agree to the entry of this judgment, in accordance with and subject to the WHEREAS provisions of this Stipulated Consent Judgment of Non-Infringement of U.S. Patent No. 5,900,424.

Dated: July 13, 2012

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